

Building Lasting Peace:

Issues of the Implementation of the Chittagong Hill Tracts Accord

Bushra Hasina Chowdhury

Department of International Relations
University of Dhaka, Bangladesh

Program in Arms Control, Disarmament, and International Security
University of Illinois at Urbana–Champaign
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CONTENTS

<i>About the Author</i>	v
Introduction	1
Part One	
The Geophysical and Demographic Setting	3
Geography of the Chittagong Hill Tracts	3
The Population of the Chittagong Hill Tracts	3
Part Two	
The History of the Conflict	5
British Period	5
Pakistan Period	6
Bangladesh Period	6
Part Three	
Political Responses of the Governments of Bangladesh (1972-2001)	7
Sheikh Mujibur Rahman (1972-1975)	7
Ziaur Rahman (1975-1981)	7
Justice Abdus Sattar (May 1981-March 1982)	8
Hussain Muhammad Ershad (1982-1990)	8
Khaleda Zia (1991-1996)	9
Sheikh Hasina (May 1996-2001)	9
Part Four	
Provisions of the CHT Accord of 1997 and Their Implementation Status	11
General	11
Hill District Local Government Council/Hill District Councils	12
Chittagong Hill Tracts Regional Council	18
Rehabilitation, General Amnesty, and Other Matters	21
Part Five	
The Process of Implementation of the Accord: Built-in Weaknesses	27
Part Six	
Recent Trends: Some Tentative Hypotheses	29
Part Seven	
Recommendations	31
Part Eight	
Concluding Remarks: In Search of Lasting Peace	33

ABOUT THE AUTHOR

Bushra Hasina Chowdhury received her Masters in Social Science in International Relations from Dhaka University in 1996. She has been a lecturer there in the Department of International Relations since 1999. She has worked in Bangladesh on urban micro credit at the Shakti Foundation for Disadvantaged Women and worked on a country report assessment project on child disabilities in Bangladesh with UNICEF. She was an ACDIS Visiting Scholar from June through December of 2001.

INTRODUCTION

The decades old struggle for autonomy of the Jumma¹ peoples of the Chittagong Hill Tracts (CHT) in Bangladesh came to an end with the signing on 2 December 1997 of a peace accord between the government of Bangladesh and the Parbattya Chattagram Jana Samhati Samiti (PCJSS—the Chittagong Hill Tracts Peoples' Solidarity Association). The armed members of the PCJSS deposited their arms and returned to normal life. However, doubts are increasing about the government's implementation of the accord in view of the protracted delays and its diluted enactment, especially in the case of provisions relating to the transfer of administrative responsibility to the Regional Council and the functioning of the Land Commission. Most of the army camps are yet to be dismantled and only 40 percent of the refugees have been resettled on their lands.² Among the tribal peoples and their support groups, it has widened the split between the pro-accordists and anti-accordists who have challenged the accord as not fulfilling the demand for full autonomy. Moreover, the highly polarized and divisive politics of Bangladesh makes the peace accord an issue of contention for the major parties. It remains to be seen how the present ruling party, returned to power by the election held on 1 October 2001, approaches the issue, which had been "settled" by its predecessor.

States have at various historical moments faced challenges posed by the divisive pulls of ethnicity, race, religion, and culture. A major issue of contention has been one of the sharing of state power by the dominant group. Often, some kind of devolution of power and authority satisfies the group aspiring to share power. On occasion, the demand for power sharing has led to a demand for autonomy, which when resisted transforms itself into demand for independent statehood. The emergence of Bangladesh is an example of the latter phenomena.

At the time of its inception, Bangladesh enjoyed a unique advantage, given the contemporary context of multinational states. It came into existence with a homogeneous population; less than 1 percent are ethnically different, and about four-fifths of the population are Muslims. Bangla (also known as Bengali) is practically the only language, with several distinct but not fully developed dialects. But Bangladesh was faced with one of the most protracted struggles for devolution of authority and autonomy, leading to armed insurgency by the tribal or hill peoples. This struggle had a long history. In order to understand the political dynamics of the struggle it is necessary to fathom the interplay of historical forces. A large section of this paper is devoted to the history of the genesis of the struggle, and responses and reactions to the issue that came to plague the internal politics and security of Bangladesh.

This paper is divided into several parts. Part one is devoted to discussion of the geophysical, locational, and demographic aspects of the Chittagong Hill Tracts. Part two deals with the historical roots of the problem, examining briefly the Mogul, British, Pakistani, and Bangladesh periods, and tracing the history of the transformation of a "crisis of identity" into armed struggle. In part three, the paper looks at the political responses of the different regimes towards the insurgency movement in the CHT and their initiatives or lack thereof for peaceful resolution. Part four takes a detailed look at the provisions of the CHT accord and examines the implementation status of its provisions. In a way, this part is the centerpiece of the present paper. Whether or not the accord is able to generate the necessary political will for implementation will determine the fate of the accord itself and the integration of the nation as well as of the national boundary. Part five proceeds to identify the weaknesses of the framework within which the accord was negotiated. This part examines its potential to restore lasting peace in the region and the adverse consequences of slow and partial implementation. Part six advances some hypotheses regarding the likely approach of the new government towards the accord. Part seven puts forward recommendations as to how to make the accord work for the unity of the nation. These recommendations have been divided into those that need to be followed at the national level and those that are to be pursued at the local level. The concluding remarks in part eight advocate for statesmanlike leadership, and for the accord to be function on a broad-based consensus, in order for it to make a contribution to lasting peace and to be an effective instrument for conflict resolution.

¹ 'Jum' is shifting cultivation carried out predominantly on the steep slopes of the hills. The Jum cultivators are collectively known as Jumma or Jumia. They are also known as hill people.

² *Report of an Audit of Peace: Nagaland and the Chittagong Hill Tracts Peace Accords* (Dhulikhel, Nepal: South Asia Forum for Human Rights, 1999).

PART ONE

The Geophysical and Demographic Setting

Geography of the Chittagong Hill Tracts

The Chittagong Hill Tracts are comprised of three hill districts—Rangamati, Bandarban, and Khagrachari. The region lies in the southeastern part of Bangladesh and occupies a physical area of 5,093 square miles, constituting 10 percent of the total land area of Bangladesh. It is situated between 21° 25' and 23° 45' north latitude, and between 91° 45' and 92° 50' east longitude. It is surrounded by the Indian states of Tripura on the north and Mizoram on the east, by Myanmar on the south and east and the Chittagong district on the west. The terrain in the CHT is part of the great hill mass—an offshoot of the Himalayan range—occupying parts of India, Myanmar, and Bangladesh. The hills inside Bangladesh rise up to a maximum of 4,000 feet, with the ranges running generally northwest to southeast and dividing the area into a number of large valleys. The valleys are covered for the most part with dense virgin forest, interspersed with small waterways and swamps of all sizes and description.³ The districts comprise seven valleys formed by the Feni, Karnafuli, Chengi, Myani, Kassalong, Sangu, and Matamuhuri rivers and their tributaries. There are numerous hills, ravines, and cliffs covered with dense vegetation. Geographically the CHT can be divided into two broad ecological zones: hilly valleys and agricultural plains. The CHT is a unique territory of Bangladesh with mountains and beautiful landscapes in stark contrast to the alluvial, monsoon-flooded plains of the rest of Bangladesh.

The Population of the Chittagong Hill Tracts

In the hills of the CHT, it is not only the landscapes that are dramatically different from the plains, but the original inhabitants are also strikingly different from the overwhelming majority of Bengali people.

The total population of the CHT, as per the 1991 census, was approximately 974,000. Out of this number, hill people constituted 500,000 and the Bengalis 470,000.

Hill People or Tribal People

The thirteen ethnic groups living in the CHT region are of Sino-Tibetan descent belonging to Mongolian groups. There are diversities amongst the ethnic groups themselves, which have their own distinct languages, customs, religious beliefs, and systems of sociopolitical organization. They even choose to live in different habitats. The Chakmas, Marmas, and Tripura live in valleys. The Khumi, Murang, Lushai, Bawm, Pankhu, Kuki, Khyang, Tanchangya, Chak, and Riang live on hill ridges. Among the hill people in the CHT, the Chakmas are the most dominant and largest group, comprising about 30 percent; they are Buddhists. The Marmas, the second largest, comprising about twenty percent of the CHT population, are also Buddhists. The third largest—the Tripuras—are Hindus. The rest of the tribal people—the Lushai, Pankhu and Bawm—are Christians. There are minority groups who are animists or followers of variations of various religions.

The Chakmas speak a dialect close to “Chittagonian,” a dialect that is spoken by the local people of Chittagong, which is a deviation of the Bangla language. They also have a script resembling Burmese, but they seldom use the script. The Marmas speak and write using a dialect close to Burmese. The Tripura speak a version of Tripura dialect as spoken in the Indian province of Tripura and written in Bangla script. The remaining minority groups have their own dialects, but most do not have a script. Significantly, Bangla, the state language of Bangladesh, is the lingua franca for inter-tribal communication and is understood by most tribes. Thus, ethnicity has had a significant impact on these groups. They share a common trait in that they are non-Bengali. However, they have many differences that have affected their level of development and access to resources. Moreover, these differences have prevented them from speaking in one voice, with the other ethnic groups at times unwilling to accept the dominance of the Chakmas.

³ R. H. Sneyd Hutchinson, *Chittagong Hill Tracts* (Delhi, India: Vivek Publishing Company, 1978), 1.

Bengalis or Plainsmen

The Bengalis are of mixed Proto-Australoid and Caucasoid origin. The early Bengali settlement in the CHT took place during the seventeenth, eighteenth, nineteenth, and the first half of the twentieth centuries for various reasons. Settlers were basically farm laborers, small businessmen, fishermen, etc. However, subsequent settlement of Bengalis during the Pakistan and Bangladesh periods was large enough to give rise to resentment and hostility.

During the mid-eighteenth century, Bengali cultivators were settled in the region to work on the rajah's land and to teach lowland farming to the Chakmas in general. During the nineteenth century only tribal chiefs were permitted to own land and the Bengali immigrants became sharecroppers.⁴ It was only later that some of the immigrants purchased land. Nevertheless, the Bengali population in the CHT remained small, and at the time of the partition of India and Pakistan in 1947, it amounted to only about 2 percent. But after the partition the Bengali population began to rise. Since the independence of Bangladesh, Bengali settlement in the CHT has increased rapidly. The Bengalis now account for nearly half of the CHT population. This has given rise to allegations of displacement and usurpation of land.

⁴ Tessa Hearn, *The Chittagong Hill Tracts: Militarization, Oppression and the Hill Tribes* (London: Anti-Slavery Society, 1984), 12.

PART TWO

The History of the Conflict

The historical origin of the CHT problem may be traced back to the Mogul period. The Mogul influence in the CHT became visible in the second half of the seventeenth century. The Chakma chiefs invited Bengalis to trade certain daily necessities such as dried fish, chicken, salt, tobacco, molasses, and black cloth, which were not available in the hills.⁵ The Chakma chief promised to pay the Mogul administrator in Chittagong for permission to trade these items. In 1724, however, Jalal Khan, the Chakma chief (the chiefs gave themselves Muslim names to appease the Mogul⁶), refused to pay the tribute. Consequently he was attacked by the Mogul *dewan*, or state minister, Kishan Chand, and fled to Arakan, where he died afterwards. By 1737, Chief Shermust Khan yielded to the Mogul authority. Under the influence of the Moguls a new administrative post designated as *dewan* was introduced in the Chakma tribal administration, and continued up to 1900.

Commercial relations paved the way for political power and soon the Moguls gained ascendancy. The payment of annual tribute, although originally agreed to voluntarily, was subsequently rejected by the Chakma chiefs. However, the tribal chiefs could do nothing to undo the damage done by the military defeat. In all likelihood, the humiliating experiences of these times became entrenched in their collective psyche, and were transmitted through generations.

In 1760, Mir Qasim Ali Khan, the *nawab*, or deputy governor, of Bengal, ceded the area to the British East India Company. Troubles ensued in 1777, when Chief Sherdaulat Khan (1765-82) stopped payment of taxes to the East India Company. In retaliation the company sent troops to occupy the area. During the subsequent period intermittent war took place between the two sides. Eventually, Jan Baksh Khan, Sherdaulat's son and successor, submitted to Warren Hastings in 1785. It may be pointed out here that Jan Baksh had precipitated the crisis by prohibiting the entry of plains people into the area; and he had to submit to the English only when supplies of necessities from the plains were stopped.

British Period

Mogul rule lasted from 1666 until 1760, when the region was ceded to the East India Company. The Chakma domination was not interfered with until the Hill Tracts Manual was introduced in the year 1901.

Under the CHT Regulation of 1900, the hill tracts were divided into three revenue circles, each headed by a *rajah*. The three circles, known as the Chakma, the Mong, and the Bohmang, together were constituted with representatives from all tribes. A hierarchical system of authority was created, with each circle divided into *mouzas* (369 *mouzas*, each headed by a headman), and each *mouza* comprising a number of villages (each headed by their own *karbaris*). The headmen of the *mouzas* had the power to collect revenue, settle disputes, and allocate land for shifting cultivation.⁷

However, though the system introduced by the British provided for the tribals to administer the district, the ultimate authority rested with the British-appointed deputy commissioner. Basically, the Regulation was an imperialistic tool used to rule and exploit the tribals by raising revenues and taxes without impediment.⁸ The CHT Regulation of 1900 designated the CHT as "excluded area" and left the tribal people to themselves to help preserve minority tribal culture and heritage.

⁵ Dr. Mizanur Rahman Shelly, ed., *The Chittagong Hill Tracts of Bangladesh: the Untold Story* (Dhaka, Bangladesh: Centre for Development Research, Bangladesh, 1992), 27.

⁶ Ibid.

⁷ Philip Gain, "Life and Nature at Risk," in *The Chittagong Hill Tracts: Life and Nature at Risk*, ed. Raja Devashish Roy, et al. (Dhaka, Bangladesh: Society for Environment and Human Development, 2000), 17.

⁸ Zainal Abedin. *CHT: That Sheds Blood* (Dhaka, Bangladesh: Sunzida Anzuman, 1997), 29.

Pakistan Period

The constitution of Pakistan changed the status of the CHT from excluded area to tribal area. Since then the Bengalis started to settle in the CHT region. This period also witnessed a most devastating impact of “modernization” and “development” on the people of the CHT. The Kaptai Dam, a huge US-funded hydroelectric project, was constructed on the Karnafuli River in Rangamati, causing the displacement of a huge number of hill people, rendering 100,000 people homeless, and inundating 40 percent of the prime land.⁹ Even today, thousands of victims of the Kaptai Dam construction continue to languish in India as “stateless persons,” and many of them are dispersed within the CHT region as internally displaced persons.

Bangladesh Period

The constitution of Bangladesh in its preamble enunciated nationalism, socialism, democracy, and secularism as state principles. During the constitutional debate Sheikh Mujibur Rahman, the Father of the Nation and the then Prime Minister of the country, emphasized the exclusive primacy of Bengali culture, heritage, language, and the sacrifices made by Bengalis in the liberation struggle. The constitution declared Bangladesh as a unitary state and Bengali as the state language. The constitution also declared that citizens of Bangladesh were to be known as Bengalis. Manabendra Narayan Larma, the lone representative of the Chittagong Hill Tracts in the Parliament, refused to endorse the constitution, since it did not recognize the existence of other national communities or sub-national identities.

During the constitution-making process, the demands of a hill peoples delegation under the leadership of Larma were rejected by Sheikh Mujibur Rahman, who urged them to become Bengalis and forget their tribal identities, and reportedly threatened to turn them into minorities in the CHT by sending Bengalis to move there.¹⁰ Bangladesh itself was the creation of a protest movement, defying the imposition of the hegemony of Pakistani nationalism, which was not flexible enough to accommodate other nationalities. It is ironic that the leadership of Bangladesh at that time not only refused to accommodate minority communities, but also imposed their own brand of nationalism upon them.

However, Manabendra Narayan Larma rejected the imposition of Bengali nationalism. The failure of the state to recognize the identity of hill people and their political and economic marginalization led Larma to form the Parbattya Chittagram Jana Samhiti Samiti (PCJSS—the Chittagong Hill Tracts Peoples’ Solidarity Association) in March 1972. Subsequently, a military wing called Shanti Bahini was added to it. Thus the seeds of Jumma nationalism—an identity that the PCJSS now claims for the hill people—were sown.¹¹ Shanti Bahini began its operation when they ambushed a Bangladesh military convoy in 1977. After the ambush, the CHT region was placed under the General Officer Commanding (GOC) of the Twenty-fourth Division of the Bangladesh Army and the Bangladesh military began counterinsurgency operations. Thus, an opportunity for accommodation and co-existence was lost and the nation was faced with what amounted to an armed insurgency movement.

⁹ *Life Is Not Ours: Land and Human Rights in the Chittagong Hill Tracts, Bangladesh* (Copenhagen, Denmark: Organising Committee, Chittagong Hill Tracts Campaign, 1991), 13.

¹⁰ *Ibid.*, 14.

¹¹ Amena Mohsin, *The Politics of Nationalism: The Case of the Chittagong Hill Tracts, Bangladesh* (Dhaka, Bangladesh: The University Press, 1997), 58.

PART THREE

Political Responses of the Governments of Bangladesh (1972-2001)

Upon its independence in 1971, Bangladesh inherited a problem in the CHT that had long historical roots, but which was exacerbated during the Pakistan period. The successive governments of Bangladesh perceived the problem in their own ways and sought solutions accordingly. However, the policies adopted by the different regimes failed to contain, curb, or bring about a cessation of hostilities.

Sheikh Mujibur Rahman (1972-1975)

The response of the Mujib government demonstrated both political and military approaches. While addressing a huge gathering at Rangamati during the 1973 election campaign, Sheikh Mujib categorically stated his government's intention to pay attention to the special needs of the tribals. At the same time, he declared that from that day forward they would be considered Bengalis¹²—a counter-productive statement, since the tribals interpreted it as an invitation to surrender their distinctive identity. Eventually, in order to contain the militant insurgency movement, the government of Bangladesh deployed security forces to aid civil power, in accordance with existing laws of the country. Following the army coup of mid-1975, tribal insurgency became more aggressive, with India serving as a safe haven for the insurgents.¹³

Ziaur Rahman (1975-1981)

The Zia regime perceived the CHT issue primarily as an economic one and held that economic development of the region would eventually undermine the appeal and strength of the movement. The Chittagong Hill Tracts Development Board (CHTDB) was created in January 1976, which in addition to other activities embarked on community development programs. A Multisectoral Development Program was undertaken with a view to create the necessary conditions for the longer-term socioeconomic development of the region. But with increasing militancy and armed action by the Shanti Bahini, the government was compelled to deploy armed forces in October 1976 in aid of civil law and order agencies.

As a political measure to appease the insurgents, General Zia, the president, appointed Rajmata (the mother of the Chakma king) Benita Roy as advisor to the president, later to be replaced by A.S. Prue Choudhury. However, the political move did not produce the intended results, as both advisors belonged to the royal family and the insurgents did not have much confidence in their efficacy.

The government of Bangladesh, as a next step, looked for ways and means to build a broad-based consensus. On 2 July 1977, the Tribal Convention, a forum representing tribal people, was formed. The Tribal Convention held talks, preparatory to official level negotiation, for an enduring political solution that would be built on consensus. Despite initial interest in the process, the PCJSS subsequently backed out due to the party's internal problems. However, before the government's renewed efforts for creating conditions for dialogue to find a political solution could materialize, the process was halted due to the assassination of Ziaur Rahman in May 1981.

During 1979-81 about one hundred thousand landless Bengalis were settled in the CHT, raising the ratio of settlers to tribals to 27.05 percent.¹⁴ This caused great resentment among the tribals, especially as each settler family was allocated five acres of hilly land or four acres of mixed land composed primarily of rice land.

¹² Shelly, *The Chittagong Hill Tracts of Bangladesh*, 129.

¹³ *Life Is Not Ours*, 16.

¹⁴ Shelly, 134.

Justice Abdus Sattar (May 1981-March 1982)

Justice Sattar, during his short tenure, received a delegation on 5 February 1982, led by the President's Advisor on CHT affairs, Subimal Dewan, and comprised of tribals and Bengalis. The discussions did not result in any concrete decision.

Hussain Muhammad Ershad (1982-1990)

The Ershad government followed a three-fold approach: it continued counterinsurgency operations; it took steps to develop socioeconomic structures; and it pursued initiatives to ensure a comprehensive political settlement. The government declared the CHT a Special Economic Area (SEA) in August 1985, with the objective of integrating tribals and non-tribals into the mainstream of economic activities. The expectation was that this would lead to an overall development of the region.

In 1982 a liaison committee, formed for communication purposes and headed by Upendra Lal Chakma, failed largely because PCJSS questioned the legitimacy of the committee. A rift in the PCJSS leadership, which was also partly responsible for the rejection of the committee, led to the killing of M.N. Larma on 10 November 1983. The Priti faction surrendered to the government on 29 April 1985, signaling an indirect victory of the policy pursued by the regime.

The Tribal Convention was revived on 30 August 1983, with the objective of creating public support for a negotiated settlement. The government announced some important measures in October 1983, including the suspension of Bengali settlement, the granting of amnesty to insurgents, and a proposal for direct dialogue with the PCJSS leadership.¹⁵ The first ever dialogue was held on 21 October 1985, as congenial conditions were created by these announcements and by the activities of the liaison committee. The dialogue proved inconsequential, but both sides undertook to continue the process.

On 9 September 1987, the government set up a National Committee for the CHT with the then Minister for Planning as the head, with the mandate to take necessary steps for resuming dialogue with PCJSS and recommend action for solving the problems.

The second dialogue, held on 17-18 December 1987, was indeed a "repeat performance." The PCJSS put forward a five-points demand with twenty-five other detailed demands added. The government rejected these demands, as they were incompatible with the constitution of Bangladesh. Though the meeting ended in a deadlock, both sides agreed to meet again.

The third dialogue, held on 24-25 January 1988, also failed. The PCJSS refused to modify their demands as suggested by the government, who requested that they conform to the spirit and provisions of the constitution.

Both the fourth and fifth attempts at constructive dialogue during 1988 failed because both sides adhered to their earlier positions. The political strategy of involving representatives of the three hill districts in a number of meetings in the latter part of 1988 resulted in a Memorandum of Understanding. This led to a shift in the position of the PCJSS, who now called for holding the sixth dialogue.

Accordingly, on 14-15 December 1988, the sixth dialogue was held. At this dialogue PCJSS demanded "regional autonomy" in place of their earlier stance in favor of provincial autonomy. Their other demands remained unchanged. The government, while agreeing to the PCJSS position, put forward a proposal containing nine points. The PCJSS refrained from giving their decision but agreed to do so at the seventh meeting. The seventh dialogue could not be held, as the PCJSS did not make the necessary gesture by the stipulated deadline (January 1989).

The government then took some legal and executive measures. During February 1989, the Parliament enacted the Rangamati Hill Tracts Local Government Council Act of 1989, the Khagrachari Hill Tracts Local Government Council Act of 1989, the Bandarban Hill Tracts Local Government Council Act of 1989, and the Hill District (Repeal and Enforcement of Law and Special Provision) Act of 1989. The Special Affairs Ministry was constituted by the government in July 1990 to look after the affairs of the CHT. All of these moves led towards a positive outcome. First, a beginning was made in the direction of autonomy. Second, the smaller

¹⁵ Syed Anwar Husain, *War and Peace in the Chittagong Hill Tracts: Retrospect and Prospect* (Dhaka, Bangladesh: Agamee Prakashani, 1999), 44.

tribes for the first time came to be involved in the political process which had for so long been dominated by the Chakmas, the Marmas, and the Tripuras. Primary education, agriculture, and health and family planning were transferred to newly constituted district councils, which were comprised of elected tribal representatives.

Another important political initiative taken by the government to solve the CHT crisis during these years was the declaration of four general amnesties. Some 2,294 insurgents surrendered and 30,390 tribals returned from camps across the border.¹⁶

Khaleda Zia (1991-1996)

The government led by Khaleda Zia declared a general amnesty for the insurgents with an offer of cash rewards for surrendering their arms. In a major policy statement made at Khagrachari on 12 May 1992, Khaleda Zia expressed the hope that it was possible to find a political solution through constitutional process and within the constitutional framework.

During July 1992, the government appointed a nine-member committee (with everyone on the committee being members of Parliament) to look into the CHT issue, with a directive to submit recommendations within two months.

The government attached utmost importance to the very sensitive issue of land ownership. But decisions on the issue had to be preceded by a cadastral survey, which was extremely expensive and time consuming.

The local administration was entrusted with responsibilities for relief and rehabilitation. Since the fiscal year 1989-90, fifty thousand families affected by insurgency had been covered under various relief and rehabilitation programs such as pacification, rehabilitation of non-tribal families, rehabilitation of tribal families, and rehabilitation of returnees from India. For the fiscal year 1992-1993, Tk. 399 million (approximately US \$1.05 million) were allocated under these four programs.¹⁷ The three Local Government Councils also received annual grants for development purposes, which had some positive impact on the local people and encouraged many tribals to return. The perceptible increase in the number of returnees was a reflection of the confidence of tribals in the democratically elected government. The insurgency situation appeared to improve, with the PCJSS declaring a unilateral ceasefire on 10 August 1992.

The Parliamentary Committee headed by Ret. Col. Oli Ahmed for conducting negotiations with the PCJSS held seven dialogues, and a sub-committee headed by Rashed Khan Menon, Member of the Parliament, held six dialogues. But the process stopped by mid-1994, while refugee repatriation stopped by the beginning of 1995, perhaps owing to the increasing preoccupation of the ruling party with instability in the political arena.

Sheikh Hasina (May 1996-2001)

The Awami League in election campaigns in both 1991 and 1996 stood committed to addressing the demand for a political solution to the CHT crisis. During her election campaign in the CHT in 1996, Sheikh Hasina promised to form a “parliamentary committee” to resolve the crisis politically. It also seemed that the people of the CHT had great expectations from the Awami League government. Members of parliament from constituencies in the CHT belonged to the Awami League, which facilitated the peace deal between the two sides. On September 30, the prime minister announced the formation of an eleven-member national committee under the chairmanship of Abul Hasnat Abdullah, Chief Whip. The single objective for the committee was to suggest a way to find a “permanent political solution within the framework of the state sovereignty of Bangladesh.” During December 21-24, the first meeting took place between this committee and the PCJSS, represented by Jyotirindra Bodhipriya Larma, also known as Shantu Larma. Unlike this first meeting, PCJSS members came to Dhaka for the remaining seven meetings, which demonstrated their confidence in the peace process.¹⁸ The historic peace accord was signed on 2 December 1997. Thus, the process of the alienation of the tribals that began in the early seventies gradually seemed to reach the stage of integration some twenty-five

¹⁶ Ibid., 51.

¹⁷ Shelly, 150.

¹⁸ Husain, 62.

years later. However, enduring peace appears to be elusive, and there are rumblings of dissatisfaction over the implementation of the accord.

PART FOUR

Provisions of the CHT Accord of 1997 and Their Implementation Status¹⁹

The parties involved in the accord are the government of the People's Republic of Bangladesh and the people of the Chittagong Hill Tracts, represented by the National Committee and the Parbattya Chattagram Jana Samhati Samiti (PCJSS), respectively. Anticipating criticism or misrepresentation of the accord, the issue of the sovereignty and integrity of Bangladesh is expressly recognized. The objectives of the accord are stated in terms of a comprehensive set of rights and the promotion of all-around development of all citizens in the CHT.

Under the framework of the constitution of Bangladesh and having the fullest and unswerving allegiance to the sovereignty and integrity of Bangladesh, the National Committee on CHT Affairs on behalf of the government of the People's Republic of Bangladesh, and the PCJSS, on behalf of the inhabitants of the Chittagong Hill Tracts, worked out the accord. With an objective to uphold political, social, cultural, educational, and economic rights, and to expedite socioeconomic development process of all citizens in the CHT, the two parties arrived at an agreement which is divided into four parts: General; Hill District Local Government Council/Hill District Council; Chittagong Hill Tracts Regional Council; and Rehabilitation, General Amnesty, and Other Matters.

The following discussion states the provisions of the accord and examines their implementation status, with a view to assessing whether the accord's potential to bury the seeds of discord rooted in the past and having a history of armed insurgency can be realized, or whether it is likely to cause further destabilization in the region.

General

1. Both sides, considering the CHT as a "Tribal Populated Region," recognized the necessity of protecting the character of this region while making provisions for its overall development.

Implementation status: The government authorities in the CHT and at the national level remain reluctant to preserve the characteristics of this region as a tribe-inhabited region. So far, the authorities concerned have not made any significant move toward the attainment of overall development in the interest of tribal peoples and other permanent Bengali residents.

2. Both sides, in accordance with the decisions and responsibilities stated in the different sections under this agreement, determined to make, change, amend, and add relevant rules and procedures as allowed by law as early as possible.

Implementation status: No steps have been taken to implement this provision. Rather, violations of the CHT Regional Council Act of 1998 and the three Hill District Council (amendment) Acts of 1998 against the interests of tribal people continue.

3. With an aim to observe the implementation process of this agreement, an Implementation Committee shall be formed with the persons stated below:

- a) A member to be nominated by the Prime Minister—Convener
- b) Chairman of the Task Force formed under this agreement—Member

¹⁹ This section is based on the following sources: (a) Rajah Devashish Roy, "Salient Features of the Chittagong Hill Tracts Accord of 1997," in *The Chittagong Hill Tracts: The Road to Lasting Peace* (Baguio City, Philippines: Tebtebba Foundation, 2000), 55. (b) "Parbattya Chattagram Chuktir Tiritiya Borshopurti Upolokkhey 'Parbattya Chattagram Chukti' Bastobayoner Upar Samitir Baktabhya" [Oration by the PCJSS on the implementation of the *Chittagong Hill Tracts Accord*, a pamphlet published by the Parbattya Chattagram Jana Sanghati Samity (PCJSS) on the occasion of the third anniversary of the Chittagong Hill Tracts Peace Accord] (c) "Chukti Hoyto Ekhon Thikmoto Bastobayon Hochchey Na, Tobey Aaj Hok Kal Hok Sheta To Bastobayon Hotei Hobey" ["The Accord Might Not be Implemented at the Moment but Today or Tomorrow It has to be Implemented," an interview with Shantu Larma, PCJSS leader, published in a Bengali Daily *Shangbad* on 28 April 2001] (d) Author's interview with Shantu Larma on 5 May 2001.

c) President of the Parbattya Chattagram Jana Samhiti Samiti—Member

Implementation status: The Accord Implementation Committee has been formed. It held four meetings during the period from March to November in 1998. However, neither proceedings nor minutes were recorded, and no steps have been taken to implement decisions adopted at the meetings. Since 1998, the committee has remained completely inactive.

4. This agreement shall be in force from the date of its signing and execution by both parties. This agreement shall remain valid from the date it goes into effect until all steps are executed as per this agreement.

Implementation status: The accord came into effect from the date of its signing. But the government and the authorities concerned have thus far not abided by the accord. Steps and measures that run contrary to the agreement have been taken in the meantime.

Hill District Local Government Council/Hill District Councils

Both sides agreed to change, amend, add, and repeal the Hill District Local Government Council Acts of 1989 (the Rangamati Hill District Local Government Council Act of 1989, the Bandarban Hill District Local Government Council Act of 1989, and the Khagrachari Hill District Local Government Council Act of 1989) and the various sections described in the accord, such as:

1. The word “tribe” used in the various sections of the council acts shall remain intact.

Implementation status: This provision has been implemented.

2. The name of the Hill District Local Government Council shall be amended and this council shall be renamed as the Hill District Council.

Implementation status: This provision has been implemented.

3. “Non-tribal permanent resident” shall mean a person who is not a tribal and who has lands of lawful entitlement in the hill districts, and who generally lives in the hill district at a specific address.

Implementation status: This provision has been included in the three Hill District Amendment Acts of 1998. But there are allegations of violations in implementation by misinterpretation of the provisions and law by the authorities.

4. a) There shall be three seats for women on every hill district council. One third of these seats shall be for non-tribal women.

Implementation status: This provision has been included in the Hill District Acts.

- b) Sub-sections 1, 2, 3, and 4 of section 4 shall remain in force as per the original act.

Implementation status: This provision is in force. As for 4a), the provision exists in local government systems in the rest of the country, where three women members are elected to local bodies.

- c) The words “Deputy Commissioner” and “Deputy Commissioner’s” appearing in the second line of sub-section (5) of section 4 shall be substituted by the words “Circle Chief” and “Circle Chief’s” respectively.

Implementation status: This provision has been included in the Hill District Acts.

- d) The following sub-section shall be added to section 4: “Whether a person is a non-tribal or not and, if so, which community he is a member of, shall be determined, subject to his producing a certificate from the concerned Mouza Headman/Union Council Chairman/Municipality Chairman, by the Circle Chief concerned;

without a certificate in this connection being received from the Circle Chief, no person shall be eligible as a non-tribal to be a candidate for the post of a non-tribal member.”

Implementation status: This provision has been included in the Hill District Acts.

5. It is provided in Section 7 that a person elected to the post of Chairman or Member shall, before assumption of office, swear or affirm an oath before the Commissioner, Chittagong Division. This shall be amended by provisions to the effect that the Members shall swear or affirm an oath before “a Judge of the High Court Division” instead of the “Commissioner, Chittagong Division.”

Implementation status: Though the provision has been included in the Hill District Council Acts, Council Chairmen and Members did not swear or affirm oaths before any Judge of the High Court Division prior to taking over charges of the office. This violation implies a superior standing of the administration at the local level.

6. The words “to the Commissioner, Chittagong Division” shall be replaced by “as per election rules” in the fourth line of section 8.

Implementation status: This provision has been included in the Hill District Council Acts.

7. The words “three years” in the second line of section 10 shall be substituted by the words “five years.”

Implementation status: This provision has been included in the Hill District Council Acts.

8. There shall be a provision that if the office of the Chairman falls vacant, in absence of a Chairman, a tribal member elected by the other members of the Council shall preside and perform other responsibilities.

Implementation status: This provision has been included in the Hill District Council Acts.

9. The existing section 17 shall be substituted by the following sentence: “A person shall be entitled to be considered as legally eligible for enlistment in the Voters’ List if he is (1) a citizen of Bangladesh, (2) not below 18 years of age, (3) not declared by any competent court to be of unsound mind, (4) a permanent resident of the hill district.”

Implementation status: This provision has been included in the Hill District Council Acts. However, electoral lists have not been made on the basis of this Provision. Non-permanent residents were included in the voter list to outnumber the Jumma people in the CHT.

10. The words “delimitation of constituencies” appearing in sub-section 2 of section 20 shall be distinctly incorporated.

Implementation status: This provision has been included in the Hill District Council Acts.

11. There shall be a provision in sub-section 2 of section 25 that the Chairman, and in his absence, a tribal member elected by other members, shall preside over all meetings of the Council.

Implementation status: This provision has been included in the Hill District Council Acts.

12. Since the Mong Circle does not encompass the entire area of the Khagrachari district, the words “Khagrachari Mong Chief” appearing in section 26 of the act regarding the Khagrachari Hill District Council shall be substituted by the words “Mong Circle Chief and Chakma Circle Chief.” Similarly, there shall be a provision for the attendance of the Bohmang Chief in the meetings of Rangamati Hill District Council. In the same manner, there shall be a provision that the Bohmang Circle Chief, at his will or upon being invited, shall be entitled to attend the meetings of the Bandarban Hill District Council.

Implementation status: This provision has been included in the Khagrachari and Bandarban Hill District Council Acts, but it has not yet been included in the Rangamati Hill District Council Act.

13. There shall be a provision in sub-sections 1 and 2 of section 31 that a Chief Executive Officer of the status of a Deputy Secretary to the government shall be the Secretary of the Council, and that tribal officials will receive priority for consideration for this post.

Implementation status: This provision has been included in the Hill District Council Acts. However, it has not been implemented accurately.

14. a) There shall be a provision in sub-section 1 of section 32 that the council shall be competent, subject to approval by the government, to create posts of officers and employees of different categories for the purpose of smooth completion of the works of the council.

Implementation status: Though the provision has been included in the Hill District Council Acts, the Hill District Councils and the national government have yet to implement it.

b) Sub-section 2 of section 32 shall be amended as follows: the council can, according to regulations, recruit class three and four employees and can transfer, suspend, dismiss, remove, or punish them. However, conditions will be that in case of such appointments, the tribal residents shall be given priority.

Implementation status: This provision has been included in the Hill District Council Acts but has not been implemented fully.

c) It shall be provided in sub-section 3 of section 32 that the government shall, as per regulations, have the authority to appoint officers in consultation with the council and to transfer elsewhere, suspend, dismiss, remove, or otherwise punish them.

Implementation status: This provision has been included in the Hill District Council Acts.

15. “As per rules” shall be mentioned in sub-section 3 of section 33.

Implementation status: This provision has been included in the Hill District Council Acts.

16. The words “or in any other way determined by the government” appearing in the third line of sub-section 1 of section 36 shall be deleted.

Implementation status: The words have been deleted, which means the provision has been implemented.

17. a) The principal clause of the “fourth” point of sub-section 1 of section 37 shall remain intact.

Implementation status: This provision is intact in the Hill District Council Acts.

b) The words “as per rules” shall be inserted in clause “D” of sub-section 2 of section 37.

Implementation status: This provision has been inserted in the Hill District Council Acts.

18. Sub-section 3 of section 38 shall be deleted, and sub-section 4 shall be amended as follows: “At any time before the expiry of a financial year, a budget may be prepared and approved, if necessary, for that financial year.”

Implementation status: This provision has been included in the Hill District Council Acts.

19. The following sub-section shall be added to section 42: “The council shall be competent to prepare, undertake, and implement, with the help of money receivable from the government, development projects in respect of the matters transferred to it, and all development programs at the national level shall be implemented through the council by the ministry/department/institution concerned.”

Implementation status: This provision has been included in the Hill District Council Acts in a modified form that is contradictory to the provision of the agreement as follows:

“(a) The council shall be competent to prepare, undertake, and implement, with the help of money receivable from the government, development projects in respect of the institutions and works transferred to it.”

“(b) The council shall be competent to implement all development programs in respect of the subjects transferred to it at the national level through the council by the ministry, department, or institutions concerned.”

20. The word “government” appearing in the second line of sub-section 2 of section 45 shall be replaced by the word “council.”

Implementation status: This provision has been included in the Hill District Council Acts.

21. Sections 50, 51, and 52 shall be replaced, and instead the following section shall be enacted: “The government, if deemed necessary, may advise or order the council, in order to ensure conformity with the purpose of the act. If the government is satisfied that anything done or intended to be done by the council or on behalf of the council is not in conformity with law or contrary to public interest, the government may seek information and clarification and give advice or instruction to the council on the matters concerned in writing.”

Implementation status: This provision has been included in the Hill District Council Acts.

22. The words “after the expiry of the period of being defunct” in sub-section 3 of section 53, shall be deleted, and the words “within 90 days of cancellation of the council” shall be inserted before the words “this act.”

Implementation status: This provision has been included in the Hill District Council Acts.

23. The word “government” will be replaced by the word “ministry” in the third and fourth lines of section 61.

Implementation status: This provision has been included in the Hill District Council Acts.

24. a) Sub-section 1 of section 62 shall be amended as follows: “Notwithstanding anything contained in any other law for the time being in force, sub-inspectors and all members of ranks subordinate thereto of the hill district police shall be appointed by the council as per regulations and prescribed procedure, and the council shall be competent to transfer them and take punitive action against them in accordance with the procedure prescribed by the regulations, provided that the tribal of the district shall have preference in case of the said appointment.”

Implementation status: Though this provision has been included in the Hill District Council Acts, relevant power according to this provision has not been transferred to Hill District Councils.

b) The words “subject to the provisions of all other laws for the time being in force” as they appear in the second line of sub-section 3 of section 62, shall be replaced by the words “as per law and rules.”

Implementation status: This provision has been included in the Hill District Council Acts.

25. The words “to render assistance” in the third line of section 63 shall remain intact.

Implementation status: This provision remains intact.

26. Section 64 shall be amended and enacted as follows:

“(a) Notwithstanding anything contained in any other law for the time being in force, no land and premises, including the leasable Khas lands, within the territorial limits of the Hill Districts shall be transferable by *Ijara* (leasing), settlement, purchase, or sale except with the prior permission of the council, provided that this provision shall not be applicable in respect of the area of Reserved Forest, Kaptai Hydroelectric Project, Betbungia Satellite Station, state-owned industries and factories, and the lands recorded in the name of the government.”

Implementation status: This provision has been included in the Khagrachari and Bandarban Hill District Council Acts. But in the Rangamati Hill District Act the words “in the name of the government or local authorities” have been replaced by the words “in the name of the government.” The government has not yet taken any steps to amend the provision according to the accord. The provision has not been implemented and the said authority has not been transferred to the Hill District Councils.

“(b) Notwithstanding anything contained in any other law for the time being in force, no land, hill forest under the control and within the jurisdiction of the council shall be acquired or transferred by the government without consultation with, or the consent of, the council.”

Implementation status: This provision has been included in the Hill District Council Acts. But the government and the concerned authorities are violating this provision. The following chart shows the amount of land the government had allocated or planned to allocate in different sectors without consulting the council:

<i>Different Sectors</i>	<i>Amount of Land (in acres)</i>
Establishment of Ruma Armed Forces Garrison	9,560
Expansion of Bandarban Brigade Headquarters	183
Establishment of Artillery Training Center	30,446
Establishment of Air Force Training Center	26,000
Reserved Forestation	72,000
Lease by District Commissioner	18,333
Total	156,552

“(c) The Council can supervise and control the works of the Headmen, Chairmen, Amins, Surveyors, Kanungos, and Assistant Commissioner (land).”

Implementation status: This provision has been included in the Hill District Council Acts, but this power has not been given to the Council.

“(d) The reclaimed fringe lands of Kaptai Lake shall be leased out on a priority basis to the original owners.”

Implementation status: This provision has been included in the Hill District Council Acts, but has not been followed by the authorities concerned. Rather, hundreds of acres of fringe lands have been leased out to settlers.

27. Section 65 shall be amended and formulated as follows: “Notwithstanding anything contained in any other law for the time being in force, the responsibility of collecting the Land Development Tax of the district shall rest in the hands of the council and the collected tax of the district shall be deposited in the fund of the council.”

Implementation status: Though the provision has been included in the Hill District Council Acts, this power is still being exercised by the deputy commissioners of the Hill Districts.

28. Section 67 shall be amended and formulated as follows: “in the event of necessity for harmonization of the works of the council and the government authorities, the government or the council shall raise proposals on specific subject and the harmonization of the works shall be effected through mutual communications between the government and council.”

Implementation status: This provision has been included in the Hill District Council Acts. This provision has not been exercised either by the government or the Hill District Council.

29. Sub-section 1 of section 68 shall be amended and formulated as follows: “With a view to carrying out the purposes of this act, the government may, upon consultation with the council, make rules through notification in the Government Official Gazette and the council shall have a special right to apply to the government for review of the said rules even after they are already made.”

Implementation status: This provision has been included in the Hill District Council Acts. But the government has not yet made any rules applicable to the Hill District Council.

30. a) The words “with prior approval of the government” in the first and second lines of sub-section 1 of section 69 shall be repealed, and after the words “may make” in the third line the following proviso shall be added: “provided that if the government does not agree with any part of the regulations made, it shall be competent to give advice or directive to the council towards amendments of said regulations.”

Implementation status: This provision has been included in the Hill District Council Acts.

b) The words “conferment of the powers of the chairman on any officer of the council” in clause (h) of sub-section 2 of section 69 shall be deleted.

Implementation status: This provision has been implemented.

31. Section 70 shall be deleted.

Implementation status: This provision has been implemented.

32. Section 79 shall be amended and formulated as follows: “If, in the opinion of the council, any law made by the national parliament or any other authority as applicable to the hill district is one which creates hardship for the said district or is objectionable to the tribal, the council may, upon stating the cause of hardship or objection, apply to the government in writing for amending or relaxing the application of such law, and the government may take remedial measures in accordance with such applications.”

Implementation status: This provision has been included in the Hill District Council Acts.

33. a) The word “supervision” shall be added after the word “discipline” in the schedule number one on the activities of the council.

Implementation status: This provision has been included in the Hill District Council Acts.

b) In item no. 3 of the Council’s activities, the following shall be added: “(1) Vocational education, (2) Primary education through mother tongue, (3) Secondary education.”

Implementation status: This provision has been included in the Hill District Council Acts but has not been put into effect.

c) The words “reserved or” appearing in clause 6(b) of the Council’s activities shall be deleted.

Implementation status: This provision has been implemented.

34. The following subjects shall be included in the functions and the responsibilities of the Hill District Council:

- a) Land and land management
- b) Police (local)
- c) Tribal law and social justice

- d) Youth welfare
- e) Environmental protection and development
- f) Local tourism
- g) Improvement Trust and other institutions concerning local administration, other than Municipality and Union Council
- h) Issuing license for local commerce and industries
- i) Proper utilization of rivers and streams, canals and beels (low-lying marshy tracts) and irrigation systems other than water resources of the Kaptai Lake
- j) Maintaining of the statistics of birth and deaths
- k) Wholesale business
- l) Jum cultivation

Implementation status: This provision has been included in the Hill District Council Acts, but some of the subjects have not been transferred to the Hill District Councils.

35. The following items shall be added to the subjects for imposition of taxes, rates, tolls, and fees by the council as stated in the second schedule:

- a) Registration fees of non-mechanical transports
- b) Tax on buying and selling commodities
- c) Holding tax on lands and buildings
- d) Tax on selling of domestic animals
- e) Fees for community adjudication
- f) Holding tax on government and non-government industries
- g) A specified part of the royalty on forest resources
- h) Supplementary Tax on Cinema, *Jatra* (a form of theater), and Circus
- i) Part of royalty received by the government against granting licenses or *pattas* (ownership rights to land) for the exploitation of mineral resources
- j) Tax on business
- k) Tax on lottery
- l) Tax on catching fish

Implementation status: This provision has been included in the Hill District Council Acts, but power to exercise this provision has not been given to the Hill District Council.

Chittagong Hill Tracts Regional Council

1. Subject to the amendment and addition of the various sections in the Parbattya Zilla Sthanio Sarkar Parishad Ayin, 1989 (Hill District Local Government Council Act XIX, XX, and XXI of 1989) for the purpose

of making the Hill District Council more powerful and effective, a Regional Council will be formed comprising the local government councils of three Hill Districts.

Implementation status: The three Hill District Council Acts have been amended according to the accord.

2. The elected members of the Hill District Council shall, by indirect mode, elect the chairman of this council whose status shall be equivalent to that of a state minister and who shall be a tribal.

Implementation status: This provision has been included in the Regional Council Act. The chairman is a tribal and has been given the status of a state minister.

3. The council shall consist of twenty-two members including the chairman. Two-thirds of the members shall be elected from amongst the tribal. The council shall determine the modality of its functioning. The constitution of the council shall be as follows:

- a) Chairman—one person
- b) Members (tribal males)—twelve people
- c) Members (tribal females)—two people
- d) Members (non-tribal males)—six people
- e) Member (non-tribal female)—one person

Of the male tribal members, five shall be elected from the Chakma tribe, three from the Marma tribe, two from the Tripura tribe, one from the Murang and Tanchangya tribes, and one person amongst the Lushai, Bawm, Pankhu, Khumi, Chak and Khiyang tribes. Of the male non-tribal members, two persons shall be elected from each district. Of the female tribal members, one person shall be elected from the Chakma tribe, and another from among the rest of the tribes.

Implementation status: This provision has been included in the Regional Council Act and has been implemented.

4. There shall be reserved three seats for women in the council and one-third thereof shall be for non-tribal women.

Implementation status: This provision has been included in the Regional Council Act and has been implemented.

5. The members of the council shall, by indirect mode, be elected by the elected members of the three Hill District Councils. The chairmen of the three hill districts shall be ex officio members of the council and they shall have right to vote. The qualification and disqualification of candidature for membership in the council shall be similar to those of the members of the Hill District Councils.

Implementation status: This provision has been included in the Regional Council Act.

6. The tenure of office of the council shall be five years. The procedure and other matters regarding the preparation and approval of the budget of the council, dissolution of the council, framing of the rules of the council, appointment and control of the officers and employees, etc., shall be similar to the procedure and other matters as are applicable to the Hill District Councils.

Implementation status: This provision has been included in the Regional Council Act but has not been implemented accordingly.

7. There shall be a chief executive officer in the council of the rank equivalent to that of a joint secretary to the government, and the tribal candidate shall be given preference for appointment to this post.

Implementation status: This provision has been included in the Regional Council Act. A tribal person has been appointed as the chief executive officer.

8. a) If the post of chairman of the council falls vacant, one person from amongst the other tribal members shall be, by indirect mode, elected chairman for the interim period by the members of the three Hill District Councils.

Implementation status: This provision has been included in the Regional Council Act.

- b) If the post of a member of the council falls vacant for any reason, it shall be filled up by by-election.

Implementation status: This provision has been included in the Regional Council Act.

9. a) The council shall coordinate all of the development activities carried out by the three Hill District Councils, and shall also superintend and harmonize all affairs of, and affairs assigned to, the three Hill District Councils. In the event of lack of harmony or any inconsistency being found in the discharge of responsibilities given to the three Hill District Councils, the decision of the Regional Council shall be final.

Implementation status: This provision has been included in the Regional Council Act but has not been implemented accordingly. The three Hill Districts, with government backing, have opposed or otherwise been uncooperative with the Regional Council in many cases.

- b) The council shall coordinate and supervise the local councils, including the municipalities.

Implementation status: This provision has been included in the Regional Council Act. But the union councils along with local councils have not been very cooperative with the Regional Council.

- c) The council shall coordinate and supervise the three Hill Districts in matters of general administration, law and order, and development.

Implementation status: This provision has been incorporated into the Regional Council Act, but the district administrators, police supers, and development authorities have been performing functions that ignore the Regional Council.

- d) The council shall coordinate the activities of the non-governmental organizations (NGOs), in addition to disaster management and the carrying out of relief programs.

Implementation status: This provision has been included in the Regional Council Act.

- e) Tribal law and community adjudication shall be within the jurisdiction of the Regional Council.

Implementation status: This provision has been included in the Regional Council Act, but no proper steps have been taken to implement this provision.

- f) The council shall be competent to grant licenses for heavy industries.

Implementation status: This provision has been included in the Regional Council Act. However, the process of establishing a fertilizer industry in the Chittagong Hill Tracts and two more units in the Kaptai Hydroelectric project are in progress, without consultation with the Regional Council.

10. The Chittagong Hill Tracts Development Board shall discharge the assigned duties under the general and overall supervision of the council. The government shall give preference to the eligible tribal candidates in appointing the chairman of the Development Board.

Implementation status: This provision has been included in the Regional Council Act, but the Development Board, with government cooperation, has been discharging its responsibilities, ignoring the Regional Council.

11. The Chittagong Hill Tracts Regulation of 1900 and other related acts, rules, and ordinances being found inconsistent with the Local Government Council Acts of 1989, shall be removed by law as per the advice and recommendations of the Regional Council.

Implementation status: Though the provision has been included in the Regional Council Act, the government has not taken any steps to eliminate the inconsistencies.

12. Until the formation of the Regional Council through direct and indirect election, the government shall be competent to constitute an interim Regional Council and to empower it to discharge the responsibilities assigned to the council.

Implementation status: This provision has been included in the Regional Council Act. An interim council has been formed but it has not been made effective.

13. In making any law in connection with the Chittagong Hill Tracts, the government shall enact such law in consultation with and as per the advice of the Regional Council. If it becomes necessary to amend any law that bears an adverse effect on the development of the three Hill Districts and the welfare of the tribal people, or to enact a new law, the council shall be competent to apply or submit recommendations to the government.

Implementation status: This provision has been incorporated into the Regional Council Act, but the government has ignored this provision while enacting law applicable to the Chittagong Hill Tracts.

14. The fund of the council shall be created from the following sources:

- a) Money received from the District Council Fund
- b) Money or profits received from all the properties vested in or managed by the council
- c) Loans and grants from the government and other authorities
- d) Grants given by any institution or person
- e) Profits earned from the investments of the Council Fund
- f) Any money received by the council
- g) Money received from other sources provided to the council as per the direction of the government

Implementation status: This provision has been included in the Regional Council Act, but the government has not been very cooperative in creating the fund for the council.

Rehabilitation, General Amnesty, and Other Matters

In order to restore normalcy in the Chittagong Hill Tracts region and, to that end, with respect to the works and matters of rehabilitation, general amnesty, and allied issues, both parties have arrived at the following consensus and agreed to undertake programs as follows:

1. With a view to bringing the tribal refugees staying in the Tripura State of India back to Bangladesh, an agreement was signed on the 9 March 1997 at Agartala in Tripura State between the government and leaders of tribal refugees. In pursuance of that agreement, the tribal refugees started returning to Bangladesh on 28 March 1997. This process shall proceed unhindered, and to that end the Jana Samhiti Samiti shall give all possible cooperation. After ascertaining the identity of the Internally Displaced Persons of the three Hill Districts, rehabilitation measures shall be undertaken through a task force.

Implementation status:

a) All of the CHT Jumma refugee families (12,222 in number, with a total of 64,609 persons) returned to the CHT from the Tripura State of Indian. But almost 50 percent of them could not return to their own homesteads and native villages because they failed to get back their homesteads and lands. Their rehabilitation under present circumstances therefore has become uncertain.

b) The government has not taken up the process of rehabilitation of Internally Displaced Persons at all. The task force, other than compiling a preliminary list, has not taken any other concrete measures for the rehabilitation of said persons. In violation of this provision, the government is making attempts to rehabilitate Bengali settlers in the CHT as permanent residents.

2. After the signing of the agreement between the government and the Jana Samhiti Samiti and implementation thereof, and the rehabilitation of the tribal refugees and internally displaced tribal, the government—in consultation with the Regional Council to be constituted under this agreement—shall, as soon as possible, commence the land survey in the Chittagong Hill Tracts. The government will finally determine the land ownership of the tribal people by settling the land disputes through proper verification, and shall record their land and ensure their rights thereto.

Implementation status: This program is yet to be implemented. This is an important provision because claim to land and its ownership has been a crucial issue creating friction between the tribals and the settlers.

3. In order to ensure the land ownership of tribal families having no land or lands below two acres, the government shall, subject to availability of land in the locality, ensure settling two acres of land per family. In the event of non-availability of required land, grove-lands shall be tapped.

Implementation status: This program has not yet been taken up for implementation.

4. A Land Commission shall be constituted under the leadership of a retired justice for settlement of disputes regarding lands and premises. This commission shall, in addition to early disposal of land disputes of the rehabilitated refugees, have full authority to annul the rights of ownership of those hills and lands which have been illegally settled and in respect of which illegal dispossession has taken place. No appeal shall be maintainable against the judgement of this commission and the decision of this commission shall be deemed to be final. This provision shall be applicable in the case of fringe-lands.

Implementation status: The head of this commission was named, but he died before he could enter office. Later the government appointed another retired judge as chairman of the commission but he resigned from the post soon after accepting it. No attempt has been taken as yet for the commission to function.

5. The commission shall be constituted with the following members:

- a) Retired justice
- b) Circle chief (concerned)
- c) Chairman/representative of the Regional Council
- d) Divisional commissioner/additional commissioner
- e) Chairman of the District Council (concerned)

Implementation status: The government has not appointed any member of the commission. The government has refrained from taking steps to settle disputes about the declaration of chiefs in the Mong Circle and Bohmang Circle.

6. a) The tenure of office of the commission shall be three years. But its tenure shall be extendible in consultation with the Regional Council.

Implementation status: The government agreed to Jana Samhiti Samiti's proposal on settling land disputes in at least the Rangamati Hill District, but has not taken any steps in this regard.

b) The commission shall resolve the disputes in consonance with law, custom and practice in force in the Chittagong Hill Tracts.

Implementation status: The government has not taken any steps to determine the customary law and practices in force in the Chittagong Hill Tracts.

7. The loans that were taken out by the tribal refugees from government agencies, but could not be properly utilized on account of the state of belligerency, shall be remitted along with interest.

Implementation status: The government's stated position has been that the matter is under process in the Ministry of Finance, and that instructions have been given to the deputy commissioners of the three Hill Districts. However, the process is yet to be completed.

8. Land allocation for rubber and other plantations: out of the lands allocated to non-tribal and non-local persons for rubber and other plantations, the lease (allocation) with respect to the lands of those who did not undertake any project during the last ten years or did not properly utilize the lands shall be cancelled.

Implementation status: The government has not yet taken any steps to implement this provision of the agreement. In violation of this provision the deputy commissioners of three Hill Districts allocated more lands to non-tribal and non-local persons in the last three years.

9. The government shall allocate additional finances on a priority basis for the implementation of an increased number of projects towards developments in the Chittagong Hill Tracts. The government shall implement new projects on a priority basis for the construction of required infrastructure for the development of the region and shall allocate necessary finances to this end. Keeping in view the environment of this region, the government shall encourage the development of tourism facilities for the tourists from within the country and abroad.

Implementation status: The government has allocated some funds for various projects in the CHT that have not at all benefited the Jumma people and the permanent Bengali residents. There has not been effective discussion between the government and the Hill District Councils and the Regional Council on the issue of tourism.

10. Quotas and stipend grants: The government shall maintain the quota system for the tribal with respect to government service and in institutions for higher studies until their attainment of parity with other regions of the country. To the aforementioned end, the government shall grant an increased number of stipends for the tribal male and female students in educational institutions. The government shall provide necessary scholarships for higher education and research in foreign countries.

Implementation status: Quotas are not being implemented properly. The number of stipends has not been increased and scholarships for higher education and research in foreign countries have not been provided.

11. The government and the elected representatives shall strive to uphold the characteristics of tribal creed and culture. The government shall patronize and help the cultural activities of the tribes towards their efflorescence.

Implementation status: The government has not taken any steps towards this end.

12. The Jana Samhiti Samiti shall, within forty-five days of the signing of this agreement, submit lists of all of its members, including those armed, to the government, along with details about the particulars of arms and ammunitions in its possession and within its control.

Implementation status: This provision has been executed on time.

13. The government and the Jana Samhiti Samiti shall, within forty-five days of the signing of this agreement, jointly determine the date, time, and place for the deposit of arms. After the determination of the date and place for the deposit of arms and ammunitions of the listed members of Jana Samhiti Samiti, various security measures shall be provided for the return of the members of Jana Samhiti Samiti and their family members to normal life.

Implementation status: This provision has been executed.

14. The government shall declare amnesty for those members who will deposit arms and ammunitions on the scheduled date. The government shall withdraw all cases lodged against them.

Implementation status: The government declared amnesty for all of the members who returned to normal life. The JSS submitted lists of cases lodged against its members. But the government has yet to withdraw all of the cases.

15. In the event of any person's failing to deposit arms within the specified time limit, the government shall take legal action against such a person.

Implementation status: The JSS deposited all arms and ammunitions within the specified time limit; hence, the government did not need to take any legal action.

16. A general amnesty shall be given to all the members of the Jana Samhiti Samiti after their return to normal life and a general amnesty shall also be given to all the permanent inhabitants connected with the activities of the Jana Samhiti Samiti.

Implementation status: This provision has been implemented.

a) For the purpose of rehabilitating the returning members of the Jana Samhiti Samiti, Tk. 50,000 per family shall be given at a time.

Implementation status: The returning members received Tk. 50,000 Those members who were in jails were also granted Tk. 50,000 each.

b) After the deposit of arms and return to normal life of all members, including the armed ones, of the Jana Samhiti Samiti against whom cases were filed, warrants of arrest were issued, 'hulias' were published, or sentence was given on trial in absentia, all cases shall be withdrawn, warrants of arrest and 'hulias' shall be called back, and sentences given in absentia shall be remitted as early as possible. If any member of the Jana Samhiti Samiti is in jail, he too shall be set free.

Implementation status: Of the 999 cases placed before the government for withdrawal or dismissal, 461 were withdrawn. But cases under the military court have not yet been taken up for withdrawal or dismissal by the government.

c) Similarly, after the deposit of arms and return to normal life, no case shall be filed against, or punishment be given to, or arrest be made of any person merely on account of his/her being a member of the Jana Samhiti Samiti.

Implementation status: Cases were filed, and warrants of arrest were lodged and issued against some JSS members.

d) The loans, which were taken out by members of the Jana Samhiti Samiti from government banks and establishments, but could not be utilized properly on account of the state of belligerency, shall be remitted with interest.

Implementation status: The stated position of the government is that the matter is under process, but so far no step has been taken to exempt the loans.

- e) Those of the returned members of the Jana Samhiti Samiti who were previously in the service of the government or government organizations shall be reinstated to their respective posts, and the members of the Jana Samhiti Samiti and members of their families shall be given employment in accordance with their qualifications. In this respect, government policy regarding the relaxation of age limits for them shall be followed.

Implementation status: Seventy-eight JSS returning members submitted applications for reinstatement. Of these, sixty-two members were reinstated to their posts. But considerations of time scale, seniority, and related allowances are yet to be granted or regularized. Six hundred seventy-one JSS members have been appointed as police constables and ten JSS members as traffic sergeants.

- f) Priority shall be given to the members of the Jana Samhiti Samiti in giving bank loans on simple terms with a view to helping their self-employment activities such as cottage industries, horticulture, etc.

Implementation status: A committee has been formed but the provision has not been implemented.

- g) Education facilities shall be provided to the children of the members of the Jana Samhiti Samiti, and their certificates obtained from foreign academic institutions shall be treated as valid.

Implementation status: With one exception, certificates are being treated as valid.

17. a) After the signing and execution of the agreement between the government and the Jana Samhiti Samiti, and immediately after the return of the members of the Jana Samhiti Samiti to normal life, all temporary camps of the army, the Ansars and the Village Defense Party (VDP), excepting the Border Security Force (BDR) and permanent army establishments (consisting of those three at the three district headquarters and those at Alikadam, Ruma, and Dighinala), shall be taken back in phases from the Chittagong Hill Tracts to permanent cantonments and a time limit shall be fixed for this purpose. In cases of the deterioration of law and order in the region, in times of normal calamities, and for similar other purposes, the armed forces may be deployed under the authority of the civil administration in adherence to law and rules as are applicable to all the other parts of the country. In this respect, the Regional Council may, in order to get the required or timely help, make requests to the appropriate authority.

Implementation status: No time limit has been determined for completion of the withdrawal of camps, which equates to a delaying of this process. So far only thirty-five temporary army camps have been taken back. The order issued in 1973 to impose military administration in the CHT remains in effect at present, having never been withdrawn. As a result, the involvement of the army in the civil administration of the CHT still exists.

b) The abandoned lands of military and paramilitary forces and cantonments shall be transferred to their original owners or to the Hill District Council.

Implementation status: This provision has not been implemented fully.

18. Permanent residents of the CHT, on a priority basis for the tribal, shall be appointed to all posts of officers and employees at all levels of government, semi-government, council offices, and autonomous bodies in the CHT. The government may assign a deputy for a term of a certain period, provided that qualified candidates among the permanent residents of the CHT are not available for a particular post.

Implementation status: Appropriate steps have not been taken by the government to implement this provision.

19. A Ministry on Chittagong Hill Tracts Affairs shall be established by appointing a minister from among the tribal groups. An Advisory Council shall be formed to assist this ministry with the persons stated below:

- a) Minister on Chittagong Hill Tracts Affairs

- b) Chairman/representative, Regional Council
- c) Chairman/representative, Rangamati Hill District Council
- d) Chairman/representative, Khagrachari Hill District Council
- e) Chairman/representative, Bandarban Hill District Council
- f) Member of Parliament, Rangamati
- g) Member of Parliament, Khagrachari
- h) Member of Parliament, Bandarban
- i) Chakma Rajah
- j) Bohmang Rajah
- k) Mong Rajah
- l) Three members from non-tribal residents of hilly areas nominated by the government from three Hill Districts

Implementation status: A Ministry for CHT Affairs has been established. A minister has been appointed. An Advisory Council has been formed but has not met yet.

PART FIVE

The Process of Implementation of the Accord: Built-In Weaknesses

As the clause-by-clause examination of the implementation process discussed in part four of this paper indicates, some of the structures envisaged have been set up. These structures basically were intended to address the main grievances of the tribal people. One such source of grievance was the settlement of Bengalis on their land, negating the advantages of the CHT being their exclusive habitat. A second set of grievances resulted from the interventions by the central government, which violated the principle of the tribals' special status. Third, there was a sense of underdevelopment; however, this sense did not precipitate a desire to see mega-development projects, because one such project—the Kaptai dam—had caused havoc with tribal settlements and culture. The issues of underdevelopment rested more on matters relating to socioeconomic development, such as education, employment, and so on. In any case, there is concern that expectations in these regards have not been fulfilled. The post-accord grievances relate to the government's failure to make the CHT a completely demilitarized zone, though the government has its own considerations in deciding to maintain army camps in the region. The tribals are also unhappy with the lack of full implementation of resettlement benefits for the returnees. Besides, there is dissatisfaction over the fact that the internally displaced persons have not been fully rehabilitated. Although the Ministry for the Chittagong Hill Tracts has been established, the Advisory Council has yet to meet. The ministry, it is felt, occupies a marginal status within the ministerial set up of the government. In addition, since the accord, non-governmental organizations have had easy access to the region for providing input in regards to the needed rehabilitation, resettlement, and development. The human rights lobby in Bangladesh has articulated instances of violations of human rights, especially abduction and rape.

The implementation status as noted in the earlier section reveals that the structures set up did not perform, or only partially performed, their intended roles or discharged their assigned responsibilities. Therefore, simply having acts framed to set up local bodies guaranteeing tribal representation, or commissions with defined jurisdiction, is not enough. For the success of the accord, the provisions must be made fully operational, so that the tribals do not feel pushed to take up arms again and the government does not require diverting resources to keep peace.

It is important to note that there are other issues that are relevant to the successful implementation of any accord or document of understanding between two parties. Two such issues may be mentioned here. To be effective, any accord must be based on the universal consensus of all the players in the field. Second, the representative and authoritative status of the principal actors must not be denied or challenged.

To take up the first issue, the two major political parties in Bangladesh, the Awami League and the Bangladesh Nationalist Party (BNP), tend to adopt antagonistic postures with respect to each other, whatever the issue. The successive regimes since the emergence of Bangladesh have involved themselves with peacemaking initiatives, the governments of Ziaur Rahman and that of Khaleda Zia being no exception. This has been discussed in detail in earlier parts of the paper. In fact, the peace initiative of the Awami League government has been built on earlier initiatives. But the BNP, then in opposition, had opposed the accord as being contrary to constitutional principles and regarded it as a “sell out,” staging protest demonstrations. Gradually, however, the BNP moved away from its earlier position and only advocated for certain changes in the accord. The Awami League, on the other hand, claimed the peace accord as an exclusive achievement of its party. The achievement was personalized and Sheikh Hasina was projected both in national and international media as the exclusive architect of peace. In order for the peace accord to successfully serve its purpose, all major actors must own it. Now, with the change of government, the fate of the implementation process hangs in the balance, though it is also a fact that even during the Awami League regime, the implementation process was carried out only partially.

As to the issue of the legitimacy of representative roles of the parties to the accord, the Awami League's role in arriving at the accord by a committee headed by the party's chief whip in the Parliament has been open to criticism. The committee signed the accord on behalf of the government of Bangladesh. An all-party committee, including the BNP, would have earned better legitimacy for the accord document. Lack of cooperation between the two parties and the BNP's continued boycott of Parliament made the issue of all-party

consensus moot. On the other side, other tribal groups and organizations questioned the authority of PCJSS to assume a representative role for all tribal groups and reach an understanding with the government. The Pahari Gano Parishad (PGP or Hill Peoples Council), Pahari Chatra Parishad (PCP or Hill Students Council), and Hill Women Federation (HWF) have argued that the PCJSS settled for less because of their own internal politics, and failed to achieve full autonomy for the *pahari* (hills) people. The Hill Women Federation is a politically active and motivated group. Thus, these issues weaken the status of the accord and undermine its implementation process.

PART SIX

Recent Trends: Some Tentative Hypotheses

The political scenario changed with the election of October 2001. The BNP, leading a coalition, returned with an overwhelming majority and formed the government. It has been noted in a preceding part of the paper that at the time of the signing of the peace accord, the BNP was in opposition and had been critical of the accord. Except for political agitation, and the election manifesto, there is no explicit indication of what the BNP stand is towards the accord now that it is in power. The BNP was absent from the Parliament when the bills related to the accord were discussed. Therefore no documentary evidence exists about its position on the accord.

The BNP government is not yet two months old and it is not possible to predict future trends and positions at this point in time. However, there are tentative indications that the prime minister considers the affairs of the CHT as sensitive issues. Contrary to the stipulations of the accord, the prime minister kept the portfolio of the CHT Ministry to herself and appointed the only tribal member elected to the Parliament on BNP nomination as the deputy minister. The government has not yet interfered with the five other important ranks that the tribals are entitled to under the accord, i.e. Chairman of the Task force on Refugees, Chairman of CHTDB, and Chairmen of the three Hill District Councils. The Awami League filled in these positions during its term of office with tribals who could be considered Awami League supporters and the new government has not yet made any changes. However, putting the broad national canvas in perspective, it seems likely that the new government would ultimately bring in its own supporters.

The BNP government has suspended distribution of tender on all development projects and food grains in the three Hill Districts (Rangamati, Bandarban, and Khagrachari) until further notice.²⁰ The CHTDB, since 1976, and the Hill District Councils, since 1989, have been in charge of different development activities. This interruption is contrary to the existing provisions under the law.

Politically and historically, the Awami League seems to enjoy greater trust and working relationships with minority groups, whether ethnic or religious. Towards the end of the Awami League regime however, there was a distancing of position and dissatisfaction over the pace of implementation of the accord. The BNP's support among Bengali settlers apparently is quite high. The tribals now are likely to watch the BNP moves more carefully, and the BNP would do well to build a support base among the tribals. It is yet to be seen whether BNP's conservative alliance partner proves to be a liability in this regard. The fact that the prime minister has not yet met Shantu Larma, chairman of the Regional Council and leader of the PCJSS, is indicative of the importance she attaches to the implementation scheme of the accord.²¹

However, the above discussions are tentative in nature. It has been indicated already that two months is a fairly short time to come up with hypotheses or predict trends.

²⁰ See the news item headlined "Tender for all development works and distribution of food grains in the three Hill Districts suspended" (headline translated by the author from the original Bangla, "Tin Parbattya Jelay Shob Unnayanmulok Kajer Tender O Khaddo Shoshsho Bitoron Sthogito"), written by a staff reporter in *Prothom Alo*, 22 October 2001. *Prothom Alo* is a Bangla daily newspaper published in Dhaka.

²¹ See the news item headlined "The Hills Peace Accord is still neither here nor there" (headline translated by the author from the original Bangla, "Parbattya Shanti Chukhtir Obostha Ekhono Na Ghorka Na Ghatka"), written by a staff reporter in *Janakantha*, 24 November 2001. *Janakantha* is a Bangla daily newspaper published in Dhaka.

PART SEVEN

Recommendations

The following recommendations have been formulated with two broad objectives in view:

1. Accommodation of ethnic identities within the framework of one Bangladeshi nationhood.
2. Creation of conditions for enduring peace in the region.

These objectives are to be evaluated against certain risk factors:

1. A dissatisfied section of the population who have once taken up arms are likely to do so again if their interests are not safeguarded in the new arrangement, for they do not have much to lose.
2. The government would need to divert resources to mount counter-insurgency measures.
3. Armed action in one region may lead to other kind of frictions elsewhere within the country, and also may lead to an authoritarian leadership or regime.
4. The geophysical location of the CHT is of utmost significance. Bordering on, or in close proximity to, the trouble-torn Indian states of the northeast, the armed tribals are likely to find safe sanctuary, supplies of arms, and local political support.

Recommendations

National level

- Treat the issue as one of utmost national importance, considering the integrity and security of state boundaries, and try to create a national and broad-based consensus in favor of the accord.
- Make policy decisions and take concrete steps so that the implementation of the accord is independent of changes in government.
- Undertake effective measures to recover all arms.
- Create conditions to make the accord functional and operational, constituting the bodies mentioned in the accord, such as the Land Commission.
- Take all measures to maintain law and order in the region.
- Take steps to settle all internally displaced persons, tribals, or settlers.
- Design development plans, while keeping in special focus the different needs and problems of the CHT as compared with the rest of the country.

Local level

- Promote education of both boys and girls.
- Encourage social interaction between the tribals and settlers, especially through sports and cultural activities, keeping in view the distinctiveness of tribal culture.
- Make land surveys to establish ownership by using machinery provided under the peace accord.
- Create opportunities for employment and income generation, so that the poverty level is reduced.

- Provide public health facilities and raise consciousness about the matter.
- Provide leadership training and enhance mediation skills through training of the local government institutions and members of Parliament.
- Preserve the cultural, social, and environmental heritage of the hill people.
- Take into account the special needs of the people, keeping in view the need for harmony and peace between the tribals and the Bengalis, while drawing up development projects.
- Encourage NGOs, especially those dealing with primary education, sanitation and healthcare and legal literacy, to undertake projects involving both tribals and settlers.

PART EIGHT

Concluding Remarks: In Search of Lasting Peace

Crises of identity and integration are faced by many new states. Such crises originate from groups having distinct ethnic, racial, religious and other identities that mark them apart from the rest of the population or communities within the population of a state. They are apprehensive about being merged and assimilated into the dominant culture and feel denied of access to resource distribution roles. They are often actually dispossessed and deprived by the dominant group who enjoy, and can engineer, the support of political authority.

The tribal people residing in the Chittagong Hill Tracts comprise ethnic groups that came from different racial stock, had distinct cultures, ways of life, and social organizations. They constituted less than 1 percent of the population but occupied one-tenth of the territory. There are other tribal groups scattered in the bordering areas of some northern regions, but they have not felt the need to challenge the authority of the central government.

The distinctive status of the CHT rests on its geography, and on demographic concentration. The root of the problem between the tribals and settlers is the issue of land ownership. The hill people claim the land to be theirs by virtue of being indigenous to the region. The dissenting view maintains that they are as much settlers as the Bengalis are, the only difference being that they had settled centuries earlier from adjacent Myanmar. The Bengalis had maintained that as citizens of the state they have the right to movement and residence anywhere within the territory of the Republic of Bangladesh. Pressure on land in alluvial plains forced many to settle down in the hilly regions. Increasing migration of Bengalis to the hills region tended to give them economic power and threatened to imbalance the population ratio.

The problem was not new. It had old historical roots, but new dimensions were added during the Pakistan and Bangladesh periods. Therefore, the prime requirement for achieving enduring and lasting peace is to place the issue in its proper perspective. It requires statesmanship, which would rise above petty political considerations. It requires vision and farsightedness by those in leadership within the parties to the conflict. Those leaders should be able to foresee the consequences of protracted struggle and the benefits of harmony and co-existence. The situation needs the political will to implement solutions once they have been found, and requires placing total allegiance to the sovereignty and integrity of the state. There should be a proper appreciation of the fact that an agreement made outside the floor of the Parliament, though made on behalf of the government, has no authority to alter the basic character of the state. The devolution of authority and rights granted to tribals cannot alter the unitary character of the state. Straightforward bargains should replace manipulative politics. These are the essence, the preconditions for achieving lasting peace. It would be wiser for the government to deal with the moderates now over the lack of proper implementation of the accord than to have to cope with extremists later.

The costs of failure are high. Disruptive activities, armed warfare, likely violations of human rights, losses of lives and resources, exposing the border regions to external threats—all of these are costs that the nation can ill afford to pay if lasting peace is not achieved in the Chittagong Hill Tracts.